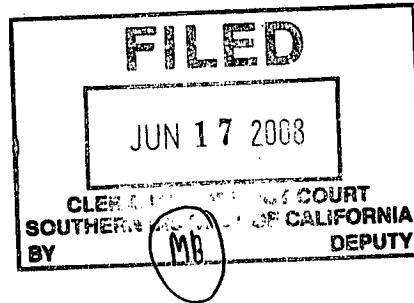


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7 Attorneys for Plaintiff  
UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

17       **IT IS HEREBY STIPULATED AND AGREED** between the plaintiff, UNITED STATES  
18   OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and  
19   Rebecca S. Kanter, Assistant United States Attorney, and defendant JORGE ALBERTO LUGOS-  
20   CISNEROS, by and through and with the advice and consent of defense counsel, Marc X. Carlos,  
21   Esq., that:

22 1. Defendant agrees to execute this stipulation at the next court appearance and to  
23 participate in a full and complete inquiry by the Court into whether defendant knowingly,  
24 intelligently and voluntarily entered into it. Defendant agrees further to plead guilty to count two  
25 of the Indictment charging defendant with a non-mandatory minimum count of Transportation of  
26 Aliens and Aiding and Abetting, in violation of 8 U.S.C. §1324(a)(1)(A)(ii) and (v)(II).

27 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to  
28 provide the signed, original plea agreement to the Government by Friday, March 28, 2008.

3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or

1 before April 1, 2008.

2 4. The material witnesses in this case, Maria Elena Torrero-Sanchez, Jesus Benavidez-  
 3 Ayala, and Luis Alberto Castro-Benavides:

- 4 a. Are aliens with no lawful right to enter or remain in the United States;
- 5 b. Entered or attempted to enter the United States illegally on or about October,  
 6 22, 2007;
- 7 c. Were guided by Defendant into the United States at a place other than a  
 8 designated port of entry and that Defendant knew or acted in reckless disregard of the fact that they  
 9 were aliens with no lawful right to enter or remain in the United States;
- 10 d. Were paying between \$2,000 and \$3,000 to Defendant or others to be brought  
 11 into the United States illegally and/or transported illegally to their destination therein; and,
- 12 e. May be released and remanded immediately to the Department of Homeland  
 13 Security for return to their country of origin.

14 5. After the material witnesses are ordered released by the Court pursuant to this  
 15 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any  
 16 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,  
 17 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

- 18 a. The stipulated facts set forth in paragraph 4 above shall be admitted as  
 19 substantive evidence;
- 20 b. The United States may elicit hearsay testimony from arresting agents  
 21 regarding any statements made by the material witness(es) provided in discovery, and such testimony  
 22 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest  
 23 of (an) unavailable witness(es); and,
- 24 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),  
 25 “testimonial” hearsay statements are not admissible against a defendant unless defendant confronted  
 26 and cross-examined the witness(es) who made the “testimonial” hearsay statements, defendant  
 27 waives the right to confront and cross-examine the material witness(es) in this case.

1       6. By signing this stipulation and joint motion, defendant certifies that defendant has  
2 read it. Defendant certifies further that defendant has discussed the terms of this stipulation and joint  
3 motion with defense counsel and fully understands its meaning and effect.

4       Based on the foregoing, the parties jointly move the stipulation into evidence and for the  
5 immediate release and remand of the above-named material witness(es) to the Department of  
6 Homeland Security for return to their country of origin.

7 It is STIPULATED AND AGREED this date.

Respectfully submitted,

KAREN P. HEWITT  
United States Attorney

11 Dated: 5/20/08

REBECCA S. KANTER  
Assistant United States Attorney

13 Dated: 5/15/08

  
\_\_\_\_\_  
**MARC X. CARLOS**  
Defense Counsel for LUGOS-CISNEROS

16 Dated: 5/15/08

Jorge Alberto Lugo Cisneros  
JORGE ALBERTO LUGOS-CISNEROS  
Defendant

## ORDER

2                   Upon joint application and motion of the parties, and for good cause shown,  
3                   **THE STIPULATION** is admitted into evidence, and,  
4                   **IT IS ORDERED** that the above-named material witness(es) be released and remanded  
5 forthwith to the Department of Homeland Security for return to their country of origin.

6 | SO ORDERED.

Dated: 6/17/08

  
United States Magistrate Judge